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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,205	12/01/2000	Charlie Wen-Tsann Chen	DALL13-00004	4432
<div>7590 03/20/2007 William J. Munck, Esq. Novakov Davis & Munck, P.C. 900 Three Galleria Tower 13155 Noel Road Dallas, TX 75240</div>			<div>EXAMINER CAO, DIEM K</div> <div>ART UNIT 2194 PAPER NUMBER</div>	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/20/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/728,205	CHEN, CHARLIE WEN-TSANN	
	Examiner	Art Unit	
	Diem K. Cao	2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-20 are pending.
2. In view of the Appeal Brief filed on 12/14/2006, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-6 and 13-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

4. Claims 1-6 are directed to a resource allocator wherein claim 1 recites "a memory that stores ... related one thereof", which is a memory stores a non-functional descriptive material, it

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is not statutory since no requisite functionality is present to satisfy the practical to satisfy the practical application requirement. Claims 1 further recites “a status monitoring controller ... tasks” and “a resource allocation controller ... characteristics”, those are software per se and are not embodied in computer-readable media are not statutory because they are not capable of causing functional change in the computer. Such claimed software do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure’s functionality to be realize. Thus, combination of two nonstatutory does not result in a statutory claim.

As to claims 5-6, they do not overcome the deficiency of claim 1 above, and therefore, are rejected under the same rejection.

See MPEP 2107.

5. Claims 13-20 are directed to a process system. Claim 13 recites “a plurality of resources comprising human resources and process resources”, wherein human resources as defined in the specification includes human being (specification, page 16, lines 11-16). Therefore, the claims are directed to nonstatutory subject matter.

As to claims 14-20, they do not overcome the deficiency of claim 13 above, and therefore, are rejected under the same rejection.

See MPEP 2105.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 13-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 13 recites “a plurality of resources comprising human resources and process resources”, wherein human resources as defined in the specification includes human being (specification, page 16, lines 11-16). The specification does not describe as how human being can be part of “a process system”. The purpose of requirement that the information in the specification must be sufficient to inform those skilled in the relevant art how to both make and use the invention.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fiszman et al (U.S. 6,115,646) in view of Bigus (U.S. 5,745,652).**

As to claim 1, Fiszman teaches a resource allocator (GPAE (general purpose automation engine) 10; col. 5, lines 1-3 and lines 61-65) that is operable to allocate a plurality of resource among a plurality of tasks within a process system (schedules and allocates resources to request based on run time availability of resources and defined goals; col. 5, lines 61-65), the plurality of resources comprising human resources and process resources (human, tools, applications; col. 5, lines 22-27), and the process system comprising a plurality of application processes (processes; col. 5, lines 6, 11), the resource allocator comprising:

- a memory (repository) that stores a model of the process system (process definitions 12; col. 5, lines 11-15, model resources; model define roles and access control; col. 5, lines 46-55), the model representing mathematically the plurality of application processes (processes), the plurality of resources (resources), the plurality of tasks (request), and defining relationships among related ones thereof (col. 5, lines 12-20);
- a status monitoring controller (server monitor; col. 19, lines 11-12 and query progress of scheduled and enacted request; col. 5, line 60 and stores the system ... reasons; col. 6, lines 1-3) that monitors measurable characteristics associated with ones of the process system, the plurality of application processes, the plurality of resources, and the plurality of tasks (checks operational aspect ... roles; col. 19, lines 11-18); and
- a resource allocation controller (a resource allocator 78; col. 9, lines 27-29) that modifies ones of the mathematical representations (has a dynamic view of the available resource; col. 9, lines 27-37 and model resources; col. 5, line 52 and col. 19, lines 46-59) and that allocates ones of the plurality of resources among ones of the plurality of tasks within the process system (the scheduler ... near optimal schedule; col. 11, lines 37-49).

Fiszman does not explicitly teach in response to ones of the monitored measurable characteristics. However, Bigus teaches allocates ones of the plurality of resources among ones of the plurality of tasks within the process system in response to ones of the monitored measurable characteristics (In a system ... changing workload; col. 2, lines 62-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Bigus to the system of Fiszman because this would provide the system of Fiszman with a more flexible resource allocation method and apparatus which will dynamically respond to changes in available system resources and configuration (Bigus, col. 2, lines 39-41).

As to claim 2, Fiszman teaches a graphical user interface that is operable to enable supervisory interaction (Users 86 are capable ... work list menu 74; col. 9, lines 58-63).

As to claim 3, Fiszman teaches the graphical user interface is operable to facilitate at least one of customer management, network management, transaction management, resource management, and communication management (Users 86 are capable ... work list menu 74; col. 9, lines 58-63, naming service, life cycle service ... trader service; col. 9, lines 55-57, col. 8, line 66 – col. 9, line 6).

As to claim 4, Fiszman teaches the memory further comprises a data repository that comprises at least one of a network database, a resource database, a control database, a knowledge database (all persistent data ... OODBMS; col. 10, lines 2-4 and col. 9, lines 51-54

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and col. 6, lines 1-3). Although Fiszman does not teach a customer database, a transaction database, a communication database, it would have obvious to one of ordinary skill in the art that all other databases can be existed in the system of Fiszman based on developers' implementation.

As to claim 5, Fiszman teaches the resource allocator is further operable to modify the knowledge database in response to ones of the monitored measurable characteristics thereby enable the resource allocator to be self-learning (col. 9, lines 27-39 and col. 19, lines 46-53).

As to claim 6, Fiszman does not teach the resource allocation controller is operable to reselect one of the allocated ones of the plurality of resource among ones of the plurality of tasks within the process system in response to modified ones of the monitored measurable characteristics. However, Bigus teaches the resource allocation controller is operable to reselect one of the allocated ones of the plurality of resource among ones of the plurality of tasks within the process system in response to modified ones of the monitored measurable characteristics (col. 2, lines 62-67 and col. 6, lines 33-44 and col. 10, lines 52-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Bigus to the system of Fiszman because this provides system of Fiszman the ability to adjust the resources among the tasks throughout the day to accommodate workload changes (col. 10, lines 52-55).

As to method claim 7, it is the same as the claim 1 above and is rejected under the same ground of rejection.

As to claim 8, see rejections of claims 2-3 above.

As to claims 9-11, see rejection of claims 4-6 above.

As to claim 12, Fiszman does not teach the reselecting step further comprises the step of accessing at least a knowledge database. However, Bigus teaches the reselecting step is based on the knowledge database (col. 10, lines 26-30).

As to claim 13, see rejection of claim 1 above. Fiszman further teaches a plurality of subsystems (col. 8, lines 51-56).

As to claims 14-18, see rejections of claims 2-6 above.

As to claim 20, Fiszman teaches the resource allocator is an information management system (col. 3, lines 12-15).

As to claim 19, Fiszman does not teach the process system controls one of a manufacturing plant, a refinery, a hotel, a restaurant, a traffic control system, a transportation control system and an emergency services system. However, Bigus suggested that the invention can be used to allocate non-computer resource within a factory system (col. 11, lines 3-11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to

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apply the teaching of Fiszman as motivated by suggestion of Bigus to different systems which allow those systems to get the same benefit from the teaching of Fiszman and Bigus.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diem K. Cao whose telephone number is (571) 272-3760. The examiner can normally be reached on Monday - Friday, 7:30AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571) 272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DC
March 15, 2007



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